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IN THE

Supreme Court of the United States

October Term, 1964

No. 1056

EMILIUS AUGUST TJONAMAN,

Petitioner,

against

A/S GLITTRE and FEARNLEY & EGER,

Respondents.

PETITION FOR REHEARING

JACOB RASSNER,
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On the Petition:
LEONARD H. WALLACH.

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PETITION FOR REHEARING

To the Justices of the Supreme Court of the United States:

PETITIONER respectfully petitions this Court to rehear the petition for certiorari on the following substantial grounds not previously presented, pursuant to R. 58, subd 2 (*Schriber-Schroth Co.* v. *Cleveland Trust Co.*, 305 U. S. 47, 50, 59 S. Ct. 8, 9).

Section 1 of Art. III, Section 1 of Art. IV and Section 1 of Art. V of the treaty between the Netherlands and the United States (8 U. S. T. 2043, 2047-2049) reads as follows:

"NETHERLANDS

FRIENDSHIP, COMMERCE AND NAVIGATION

Treaty, with protocol and exchange of notes, signed at The Hague March 27, 1956;
Ratification advised by the Senate of the United States of America July 11, 1956;
Ratified by the President of the United States of America September 14, 1956;

Ratified by the Netherlands September 20, 1957;
Ratifications exchanged at Washington November 5, 1957;
Proclaimed by the President of the United States of America November 15, 1957;
Entered into force December 5, 1957.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS a treaty of friendship, commerce and navigation between the United States of America and the Kingdom of the Netherlands, together with a protocol and an exchange of notes relating thereto, was signed at The Hague on March 27, 1956;

WHEREAS the originals of the said treaty and protocol in the English and Netherlands languages and the text of the exchange of notes signed in the English language are word for word as follows:
Treaty of Friendship, Commerce and Navigation between the United States of America and the Kingdom of the Netherlands (TIAS 3942)

* * *

ARTICLE III

(p. 2046) 1. Nationals of either Party * * * shall be accorded in like circumstances treatment no less favorable (TIAS 3942) (p. 2047) than that accorded nationals of such other Party for the protection and security of their persons and their rights. The treatment accorded in this respect shall in no case be less favorable than that accorded nationals of any third country or that required by international law.

* * *

ARTICLE IV

1. Nationals of either Party shall be accorded national treatment in the application of laws and regulations within the territories of the other Party that (TIAS 3942) (p. 2048) establish a pecuniary compensation or other benefit or service, on account of disease, injury or death arising out of and in the course of employment or due to the nature of employment.

2. In addition to the rights and privileges provided in paragraph 1 of the present Article, nationals of either Party shall, within the territories of the other Party, be accorded national treatment in the application of laws and regulations establishing compulsory systems of social security, under which benefits are paid without an individual test of financial need in the following cases: (*a*) sickness, including temporary disability for work, and maternity; (*b*) invalidity, or occupational disability; (*c*) death of father, spouse, or any other person liable for maintenance; (*d*) unemployment.

ARTICLE V

1. Nationals and companies of either Party shall be accorded national treatment with respect to access to the courts of justice and to administrative tribunals and agencies within the territories of the other Party, in all degrees of jurisdiction, both in pursuit and in defense of their rights. It is understood that companies of (TIAS 3942) (p. 2049) either Party not engaged in activities within the territories of the other Party shall enjoy such access therein without any requirement of registration or domestication. (TIAS 3942)

* * *

It is respectfully submitted that under the provisions of Sec. 1 of said Art. IV, it is intended that petitioner, a national of the Netherlands, was lawfully entitled to the application of American law by the Courts below, the said Treaty being binding on all the Courts of the land.

The Court below had affirmed on the ground that petitioner was not entitled to the application of American law.

The intent of the treaty, to treat petitioner as if he were a U. S. national, is clearly expressed in Art. III, Art. IV and Art. V, as quoted.

WHEREFORE petitioner respectfully petitions this Court to rehear the petition herein and, on such rehearing being

had, prays for reversal of the judgment below and for such other and further relief as may be just.

Respectfully submitted,

JACOB RASSNER,
Counsel for Petitioner.

On the Petition:

LEONARD H. WALLACH.

Certificate of Counsel

Counsel for petitioner hereby certifies that this petition for rehearing is presented in good faith and not for delay and further certifies that the petition is restricted to the grounds set forth in R. 58, subd. 2.

JACOB RASSNER,
Counsel for Petitioner.